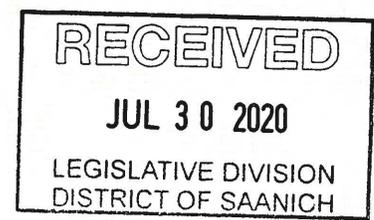




The Corporation of the District of Saanich

Supplemental Report



To: Mayor and Council
From: Sharon Hvozanski, Director of Planning
Date: July 30, 2020
Subject: Additional Information Related to Garden Suite Regulations – Bed and Breakfasts and Occupancy Requirements
File: 2140-50 • Garden Suites

RECOMMENDATION

That Council receive this report as information.

PURPOSE

The purpose of this report is to provide Council with: information about the provincial regulations governing Bed and Breakfasts on Agricultural Land Reserve (ALR) lands; and occupancy requirements for single-family dwelling properties with a garden suite under the new proposed regulations.

DISCUSSION

Background

At the October 21, 2020 Council Meeting, Council endorsed a regulatory framework to allow for garden suites. At that meeting, Council also passed the following motion:

“That Council direct staff to prepare a supplemental report on the provincial regulations governing Bed and Breakfasts on Agricultural Land Reserve lands and include occupancy requirements for single family dwelling properties with a garden suite under the new proposed regulations.”

Provincial Regulations

The Agricultural Land Reserve Use Regulation, Section 34, permits bed and breakfasts as a form of tourist accommodation and outlines parameters for their operation on ALR lands. The Agricultural Land Commission Act (ALCA) and the Agricultural Land Reserve Use Regulation were amended in 2019 to restrict bed and breakfasts to the principal residence.

To ensure consistency with the ALCA and the Agricultural Land Reserve Use Regulation, staff proposed an amendment to Saanich’s bed and breakfast regulation. At its meeting held on February 24, 2020, Council adopted “Zoning Bylaw, 2003 Amendment Bylaw No. 9586, which changed the provisions of Section 5.5 (h) to allow bed and breakfasts as a home occupation, but remove the right for bed and breakfasts to be located in accessory and agricultural buildings on ALR properties. The staff report is included as Attachment A.

Under the proposed regulatory framework for garden suites, bed and breakfasts would not be permitted. However, home occupations are permitted in all RS Zones and an owner could operate a bed and breakfast out of his principal building and have a garden suite with long-term tenants in the rear yard.

Occupancy Requirements

The potential number of persons that could reside on a single family dwelling property, with a garden suite, is outlined in the tables below. The analysis is based on a scenario where buildable area is maximized, with the maximum number of residents estimated based on typical floor plans for houses and garden suites and limitations outlined in the BC Building Code.

It is important to note that the BC Building Code does not define the size of a bedroom. Nor does the BC Building Code require defined elements to exist inside a single family houses ex. living room, dining room. As such, while not typical, it would be legal to build a single family house with a series of very small bedrooms, a shared bathroom(s) and a kitchen. So while the tables below indicated possible occupancy numbers they are based on typical single family house and garden suite floor plans.

The subject analysis focuses on the RS-6 and RS-10 Zones because they are common and the properties in these zones would typically meet the requirements for medium and large-sized lots that would allow larger garden suites (700 ft² and 1000 ft² respectively).

The minimum lot size in the RS-6 Zone is 560 m² and most RS-6 Zoned properties are in the medium lot size category (560 m² to 999 m²). The average size of an RS-6 Zoned property is 733 m².

The minimum lot size of properties in the RS-10 Zone are 780 m² and most RS-10 Zoned properties are in the large lot size category (1000 m² or more). The average lot size in the RS-10 Zone is 1031 m².

Based on current regulations:

- On an average-sized RS-6 lot with a single family dwelling and garden suite, the potential number of occupants legally residing on the property could be fourteen; and
- On an average-sized RS-10 lot with a single family dwelling and garden suite, the potential number of occupants legally residing on the property could be twenty-two.

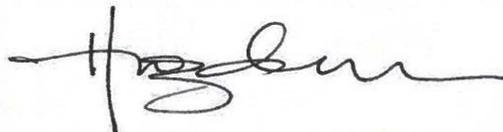
In both cases, under the current regulations, a maximum of six of these occupants could be unrelated.

TABLE 1: RS-6 Lot Scenario			
Zoning and proposed garden suite regulations			
<ul style="list-style-type: none"> The maximum Gross Floor Area for a SFD is 310 m² (3337 ft²) A garden suite can be a maximum size of 65 m² (700 ft²) on a 733 m² lot (average lot size) Under the BC Building Code a maximum of 2 persons can occupy a bedroom 			
Assumptions to calculate occupancy			
<ul style="list-style-type: none"> Assume 46.5 m² (500 ft²) of gross floor area per bedroom in a SFD Assume 37 m² (400 ft²) of gross floor area per bedroom in a garden suite 			
SFD		Garden Suite	
Number of Bedrooms	Persons per Bedroom	Number of Bedrooms	Persons per Bedroom
6	2	1	2
Total Number of Occupants in SFD and Garden Suite			
Fourteen			

TABLE 2: RS-10 Lot Scenario			
Zoning and proposed garden suite regulations			
<ul style="list-style-type: none"> As per the RS-10 zone, the maximum Gross Floor Area for a SFD is 435 m² (4682 ft²) A garden suite on can be a maximum size of 93 m² (1000 ft²) on a 1031 m² lot (average lot size) Under the BC Building Code a maximum of 2 persons can occupy a bedroom 			
Assumptions to calculate occupancy			
<ul style="list-style-type: none"> Assume 46.5 m² (500 ft²) of gross floor area per bedroom in a SFD Assume 37 m² (400 ft²) of gross floor area per bedroom in a garden suite 			
SFD		Garden Suite	
Number of Bedrooms	Persons per Bedroom	Number of Bedrooms	Persons per Bedroom
9	2	2	2
Total Number of Occupants in SFD and Garden Suite			
Twenty-two			

Prepared by: 
Megan Squires
Planner

Reviewed by: 
Cameron Scott
Manager of Community Planning

Approved by: 
Sharon Hvozdzanski
Director of Planning

MS/rh

Attachments Attachment A: Council Report - Zoning Bylaw Amendment – Lands within the Agricultural Land Reserve, dated November 14, 2019
Attachment B: Council Report - Zoning Bylaw - Unrelated Occupants, dated December 31, 2019

ADMINISTRATOR'S COMMENTS:

I endorse the recommendation from the Director of Planning.


Paul Thorkelson, Administrator

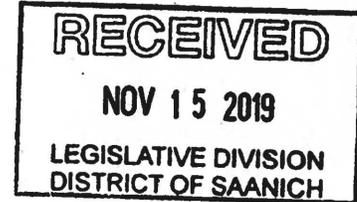


The Corporation of the District of Saanich

C 25 Nov 2019.

Report

To: Mayor and Council
From: Sharon Hvozdzanski, Director of Planning
Date: November 14, 2019
Subject: Zoning Bylaw Amendment – Lands within the Agricultural Land Reserve
File: 1130-20 • Zoning Bylaw - General



RECOMMENDATION

1. That Section 5 – Special Regulations of Zoning Bylaw 8200 be amended to include the following new section:

5.33 Lands within the Agricultural Land Reserve

Notwithstanding any other provisions in this bylaw, all lands within the British Columbia Agricultural Land Reserve are subject to the provisions of the *Agricultural Land Commission Act* and regulations thereunder.

2. That Section 5.5(h) of Zoning Bylaw 8200 be amended, removing the following text:

“Notwithstanding Section 5.2(f), on properties which are located within the Agricultural Land Reserve and have ‘farm status’ as determined by the BC Assessment Authority, bed and breakfast accommodation is permitted in accessory and agricultural buildings.”

PURPOSE

The purpose of this report is to outline proposed amendments to the Zoning Bylaw in order to make it consistent with recent changes by the British Columbia Agricultural Land Commission (ALC) for lands within the British Columbia Agricultural Land Reserve (ALR).

DISCUSSION

Background

On February 22, 2019, the Agricultural Land Reserve Use Regulation was approved, bringing into force changes to the “Agricultural Land Commission Act” (ALCA) under Bill 52, the “Agricultural Land Commission Amendment Act”. The changes address three critical issues impacting the ALR, namely;

1. End the proliferation of large mansions and lifestyle estates;
2. End the dumping of illegal fill in the ALR; and
3. Improving the decision making processes by the ALC.

Though many concepts contained in the ALCA and the ALR Use Regulation remain unchanged, there have been some significant changes to the use of land for residences. The following is a summary of key amendments to the ALCA and the ALR Use Regulation resulting from the February 22, 2019 and July 5, 2019 changes:

- The total floor area of a principal residence must be 500 m² or less;
- New siting and use requirements apply to residential structures;
- Generally, land in the ALR may have no more than one residence per parcel (subject to certain grandfathering exceptions). The Commission may approve an application for an additional residence if necessary for farm use; and
- A bed and breakfast may only occur in a principle residence.

The regulations had previously contained provisions facilitating the construction of manufactured homes for immediate family members, accommodation above an existing farm building, or (in parts of the province) a second single family dwelling. These provisions are no longer found in the ALCA or the ALR Use Regulation, with the exception of provisions for manufactured homes for immediate family members, subject to specific criteria identified in the ALR Use Regulation. There is some grandfathering protection for pre-existing structures of these kinds. In addition, the ALC may approve an application for these kinds of additional residences if necessary for farm use

In the absence of certain grandfathering exceptions, if a landowner wishes to have a principal residence having a total floor area that is more than 500 m², to have an additional residence, or to use a residential structure in a manner that contravenes the regulations, the landowner may submit an application to the ALC, through the Local Government, seeking ALC approval. The ALC calls this type of application an "Application for a Non-Adhering Residential Use".

ALC Related Zoning Bylaw Amendments

The ALC anticipates that Local Governments will have made substantial progress on updating their bylaws by February 22, 2020 to ensure consistency with the amended "Agricultural Land Commission Act" and ALR Use Regulations.

Many Local Governments within British Columbia are in the process of updating their bylaws in order to provide a reference directing the public to the ALC regulations for lands within the ALR rather than mirroring the ALC's regulations within their own bylaws. It is anticipated that the ALC regulations will be subject to further amendments in the future; as a result, providing a reference in the Zoning Bylaw ensures that further amendments to the Zoning Bylaw would not be required if additional changes are made to the "Agricultural Land Commission Act" and regulations.

Prepared by: Duane Blewett
Duane Blewett
Senior Planning Technician - Subdivision

Reviewed by: Shari Holmes-Saltzman
Shari Holmes-Saltzman
Manager of Current Planning

Approved by: Sharon Hvozdzanski
Sharon Hvozdzanski
Director of Planning

DB/sp

Attachments

ADMINISTRATOR'S COMMENTS:

I endorse the recommendation from the Director of Planning.

Paul Thorkelsson
Paul Thorkelsson, Administrator

THE CORPORATION OF THE DISTRICT OF SAANICH

BYLAW NO. 9586

**TO AMEND BYLAW NO. 8200,
BEING THE "ZONING BYLAW, 2003"**

The Municipal Council of The Corporation of the District of Saanich enacts as follows:

- 1) Bylaw No. 8200, being the "Zoning Bylaw, 2003" is hereby amended as follows:
- (a) By adding the following as a new section to Section 5 – Special Regulations:

"5.33 Lands within the Agricultural Land Reserve

Notwithstanding any other provisions in this bylaw, all lands within the British Columbia Agricultural Land Reserve are subject to the provisions of the *Agricultural Land Commission Act* and regulations thereunder."

- (b) By deleting the following sentence from Section 5.5(h):

"Notwithstanding Section 5.2(f), on properties which are located within the Agricultural Land Reserve and have 'farm status' as determined by the BC Assessment Authority, bed and breakfast accommodation is permitted in accessory and agricultural buildings."

- 2) This Bylaw may be cited for all purposes as the **"ZONING BYLAW, 2003, AMENDMENT BYLAW, 2019, NO. 9586"**.

Read a first time this day of , 2019.

Public Hearing held at the Municipal Hall on the day of , 2019.

Read a second time this day of , 2019.

Read a third time this day of , 2019.

Adopted by Council, signed by the Mayor and Clerk and sealed with the Seal of the Corporation on the day of , 2019.

Municipal Clerk

Mayor

1110-30 Housing Occupancy
Limit of unrelated residents

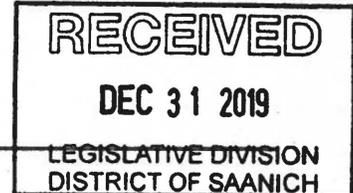
The Corporation of the District of Saanich



Report

C 26 Jan 2020

To: Mayor and Council
From: Brent Reems, Director of Building, Bylaw, Licensing & Legal Services
Date: 12/31/2019
Subject: Zoning Bylaw – Unrelated Occupants



RECOMMENDATIONS

That Council direct staff to draft an amendment to the Zoning Bylaw, 2003, increasing the number of unrelated occupants permitted in section 5.20 and in the definition of "family" from four to six.

PURPOSE

The purpose of this report is provide information to Council about the impacts associated with amending the Zoning Bylaw to increase the number of unrelated occupants permitted to live in a dwelling unit.

BACKGROUND

At its meeting of February 4, 2019, Council passed the following motion:

"That Council direct staff to report back on options and possible impacts to amend the Zoning Bylaw to increase or see the number of unrelated occupants in a residence correspond to the number of bedrooms in the dwelling or remove the limit altogether."

Section 5.20 of the District's Zoning Bylaw, 2003, provides that no more than four unrelated persons can occupy a dwelling unit.

Section 5.20 was introduced to the previous zoning bylaw in 1992 to clarify rules relating to the definition of "family" and the occupancy of single family dwellings. At the time, the definition of "family" limited the total number of unrelated persons to four, but residential zones also allowed up to two boarders in a dwelling unit, meaning a total of six unrelated persons could live in a single family dwelling. Section 5.20 was introduced to clarify that the total number of unrelated persons – including boarders and roomers – permitted is four, not six.

At the time, the definition of family was largely the same as it is in the current bylaw:

"Family – means one or more individuals who by reason of marriage, heredity, adoption, or choice live as a household; provided that the number of persons unrelated by blood or marriage shall not exceed four; excludes boarders, day-care children, or groups of persons forming a monastery, seminary, convent, or similar religious group."

Most zoning bylaws across the province attempt to define family or household in some fashion. The concept of a household unit allows communities to distinguish single family housing from multi-family housing for both community planning and building purposes, as different provisions of the BC Building Code and BC Fire Code apply depending on the classification.

A review of the other municipal zoning bylaws across the Capital Regional District indicates that all but three place limits on the number of unrelated persons that are included in the definition of family:

Municipality	Maximum number of unrelated persons allowed in the definition of "family"
Colwood	4
Central Saanich	4
Esquimalt	4
Langford	4
Highlands	No restriction
Metchosin	3
North Saanich	4
Oak Bay	3
Saanich	4
Sidney	4
Sooke	5
Victoria	No restriction
View Royal	No restriction

Most municipalities in Metro Vancouver (including the City of Vancouver) have similar restrictions with the exception of the City of Surrey which does not specify a limit.

The municipalities that restrict the number of unrelated persons use definitions of "family" that are similar to the District's. The City of Victoria defines family as follows: "Family' means one person or a group of persons who through marriage, blood relationship or other circumstances normally live together." The Town of View Royal and the District of Highlands do not define family but instead clarify that a dwelling unit must be used or intended to be used by one or more individuals living together as a household.

ALTERNATIVES

1. That Council approve the recommendation outlined in this staff report.
2. That Council direct staff to draft an amendment to the Zoning Bylaw, 2003, increasing the number of unrelated occupants permitted in section 5.20 and in the definition of "family" from four to five.
3. That Council receive this report for information and maintain the current Zoning Bylaw, 2003, provisions related to the number of unrelated occupants permitted in a dwelling unit.

4. That Council direct staff to draft amendments to the Zoning Bylaw, 2003, removing all restrictions on the number of unrelated occupants permitted in a dwelling unit.
5. That Council direct staff to draft amendments to the Zoning Bylaw, 2003, to permit the number of unrelated occupants of a dwelling unit to correspond to the number of bedrooms in the dwelling unit.
6. That Council provide alternate direction to staff.

BYLAW ENFORCEMENT IMPLICATIONS

Alternatives 1, 2 and 3

The District's Bylaw Enforcement Section investigates, on average, 25 complaints per year about the number of occupants in a residence. In the majority of cases, the investigations are prompted by complaints. A review of a sample year (2017) of bylaw enforcement files indicated that just under 50% of investigations resulted in the finding that the property in question was in breach of the bylaw; in the other cases, investigation determined that four or less unrelated people were living in the subject property. In the majority of cases where breaches of the bylaw were found, the allowable number was exceeded by one or two unrelated individuals. In cases where a breach was determined, compliance was achieved through reductions in the number of unrelated people living in the residence.

Complaints about the number of occupants in a residence often stem from neighbour concerns about parking, noise and property upkeep. The manner in which complaints are tracked, however, does not provide a way to associate these underlying concerns with properties that have more than four unrelated occupants or properties that are rented rather than owner-occupied. Similarly, the District does not have statistical data that allows staff to determine whether, in cases in which breaches of section 5.20 are found and resolved, enforcement merely addresses the occupancy issue or whether enforcement of the occupancy issue also serves to successfully address any underlying nuisance or parking concerns that may have motivated the initial complaint.

Despite limits on available data, anecdotal evidence and individual file review suggest that enforcing the unrelated occupancy requirement can be used as a tool to address nuisance and parking concerns that are often indirectly related to higher occupancy levels. While direct enforcement of bylaw provisions related to parking, noise and property upkeep are available in the alternative, enforcement of these provisions will not likely have the same impact for two primary reasons:

- First, the District is not resourced to effectively manage a higher volume of parking and noise-related complaints. Parking enforcement is administered by the Saanich Police Department. At present, parking complaints received during the hours of 7:00 a.m. and 3:00 p.m., Monday through Friday, are primarily handled by one full-time Parking Enforcement Officer. Complaints received outside of these hours are handled by Police Officers in the Traffic Safety Unit and Patrol. Between January 2017 and November 2019, Police Officers spent 1,751 hours of police time responding to parking complaints. Noise and parking complaints require a certain type of resource allocation as an Officer usually needs to attend immediately to determine whether an infraction occurred. By contrast,

Zoning Bylaw investigations can be more easily accommodated within a Bylaw Enforcement Officer's caseload and workflow as the evidence required to support a finding of a violation does not have to be collected immediately. The District continues to receive a high volume of bylaw enforcement complaints (approximately 120 per month) and Council's Bylaw Enforcement Policy explicitly prioritizes resourcing complaints related to health, safety, environment and infrastructure above those related to general nuisance concerns between neighbours;

- Second, the nature of parking and noise complaints makes it difficult for enforcement staff to meet community expectations for stricter enforcement. Noise complaints often contain elements of subjectivity. The types of noise that may annoy a neighbour will often not meet the level required for a bylaw violation or a successful bylaw prosecution. Regarding parking, residents are often concerned about the increased volume of cars that park on their street and in front of their houses. There are limited tools available to address this type of complaint as people are not prohibited from parking on residential streets. For example, if six residents of one house each own a car, those cars can lawfully be parked on the road in front of other residences on the street. Similarly, there is no restriction on parking vehicles on the front lawn (provided the vehicle is not driven or parked on the boulevard). While boulevard parking can be addressed through enforcement, this is a category of complaint that the District is not currently resourced to enforce strictly or consistently.

Increasing the number of unrelated occupants permitted from four to six will result in fewer findings of non-compliance, but will retain an upper limit that can be used to address nuisance concerns stemming from higher occupancy levels.

An additional enforcement concern related to increasing the allowable number of unrelated occupants is unpermitted construction undertaken by landlords seeking to add additional sleeping quarters to increase profit from their properties. Currently, rental houses are not treated like businesses in the District and are not subject to the same licencing regulations and standards as operators of hotels and bed and breakfasts. If more unrelated tenants are permitted, it may lead to landlords renting out space that is not safe for habitation under BC Building and Fire Codes. These types of construction infractions are difficult to monitor as they occur indoors and are not always obvious to neighbours in the same manner as noise, parking and property upkeep contraventions. When they are brought to the District's attention, however, there are tools available to effectively ensure compliance with the Building Bylaw and related regulations.

Alternative 4

The comments above also apply to an amendment that would remove the limit entirely. A significant increase in the number of unrelated tenants permitted in a single-family home could lead to an increase in the amount of nuisance complaints received by the District. As outlined above, without a limit on the number, the enforcement tools available to address neighbourhood concerns would not likely be adequate in the circumstances.

Removal of the limit completely may not have the intended effect, as there would still be a requirement for the occupants of a dwelling to live together as a family or household. A household is different than a group of tenants who rent rooms in the same building but live together separately: households are marked by some level of permanency, social commitment and common management of the property. In many cases, unrelated residents of a house may

still be in violation of a bylaw with no limit as they may in fact not be living together as members of one family or household.

Alternative 5

Linking the permitted number of unrelated occupants to the number of bedrooms in a residence would present additional challenges from an enforcement perspective. Because the number would vary from dwelling to dwelling, the rules would be difficult to communicate to the community leading to regulatory uncertainty. Investigating officers would need to determine the allowable number on a case-by-case basis, which would require additional investigative work to determine what qualifies as a bedroom (as the term is not defined in the BC Building Code) and whether any unpermitted construction was installed in order to increase the number of rooms available for rent.

PLANNING IMPLICATIONS

The provision of an adequate supply of housing by type, tenure, price, and location is a key goal of the Official Community Plan (OCP). Communal living is one means for renters to secure housing in the Capital Region that is comparatively more affordable. The ability of any type of housing to “fit” within the community is key to both its acceptance and long-term stability as a welcome and supported housing form.

Small scale communal living arrangements can and do “fit” in residential neighbourhoods, while medium and larger scale communal living arrangements can be accommodated in “Centres”, “Villages” and designated corridors.

The OCP focuses denser forms of housing to “Centres”, “Villages” and designated corridors such as Shelbourne Valley. In doing so we build more sustainable communities where residents can walk/cycle to a full range of services/amenities and more easily access better quality public transit. This approach to land use planning also helps to lessen the impact on the environment, protects valuable farm land and green spaces, and helps to reduce residents’ overall living costs which is a key aspect of making housing more affordable. Focused nodal development also uses tax payer dollars in a more efficient and cost effective manner in relation to the delivery/maintenance of services such as; roads, sewers, water infrastructure, and transit.

Small scale communal living arrangements have existed in neighbourhoods throughout Saanich for many decades. Given the current availability and cost of rental housing in the Region, a measured increase in the number of unrelated tenants allowed in a single family dwelling may be warranted.

If the number of unrelated tenants is to be increased to support the creation of more affordable rental housing, then general acceptance within the community requires reasonable bylaw/regulation(s) that can be quickly and consistently enforced. As previously noted, neighbourhood concerns typically relate to noise, property appearance or upkeep and both onsite and off-site parking.

In making the decision around the number of unrelated people allowed in a single family dwelling, it is important to note that in the future should Council decide to allow secondary suites and garden suites to be active at the same time (opposite of what was proposed in the garden suite report) the number of residents in a single family house and on the lot could significantly increase.

FINANCIAL IMPLICATIONS

There are no direct financial implications associated with the recommendation or making changes to the bylaw to increase the number of allowable unrelated occupants. However, there may be indirect resource implications if a bylaw change leads to an increase in the number of bylaw complaints made to the Bylaw Enforcement Section and the Saanich Police Department. As outlined above, the District is not resourced to effectively manage a higher volume of related nuisance and parking complaints.

STRATEGIC PLAN IMPLICATIONS

The recommendation supports the Strategic Plan's goal of increasing housing supply to support more affordable, vibrant and inclusive communities.

CONCLUSION

Council directed staff to report back on options to increase the number of unrelated occupants permitted in a residence. Changing the limit to six supports Council's strategic goal of increasing housing supply and encouraging affordability while also retaining an upper limit that can be used to address neighbourhood concerns related to higher occupancy levels.

Prepared by



Brent Reems

Director of Building, Bylaw, Licensing
and Legal Services

cc: Michael Burgess, Fire Chief
Scott Green, Chief Constable, Saanich Police Department
Sharon Hvozdzanski, Director of Planning

ADMINISTRATOR'S COMMENTS:

I endorse the recommendation from the Director of Building, Bylaw, Licensing and Legal Services.



br Paul Thorkelsson, Chief Administrative
Officer